

Appl. No. 10/757,629
Atty. Docket No. 8194C
Response dated January 14, 2009
In response to Office Action of July 14, 2008
Customer No. 27752

REMARKS

Claim Status

Claims 1, 4, 5 and 8-19 were pending. Claims 1, 4, 5 and 8-19 stand rejected under 35 USC § 103(a). Claims 4 and 14 stand rejected under 35 USC § 112. Claim 4 stands objected to. With this response, claims 1, 4, 5, and 10 are amended, claims 11-19 are canceled, new claims 20-33 are added, and no claims are withdrawn.

The Applicant does not admit that any characterization by the Office Action is correct, but discusses such characterizations herein for the sake of argument. The Applicant traverses the objections and rejections for the reasons discussed below.

Objections to the Specification

The Specification stands objected to under 37 CFR 1.75(d)(1) and MPEP § 608.01(o) as failing to provide proper antecedent basis for the claimed subject matter. (Office Action, page 3, point 3.)

First, the Office Action objected to the specification as not including the term “peak peel load value.” The Applicant notes that claims 11-15 included to the terms “first peak peel load value” and “second peak peel load value.” The Applicant points out that claims 11-15 are canceled with this response, and the term “peak peel load value” is not included in any of the new claims. In light of this, the Applicant submits that this objection is moot.

Second, the Office Action objected to the specification as not including the term “second first edge.” The Applicant notes that claim 4 previously included the phrase “second first edge.” The Applicant points out that claim 4 as currently amended no longer includes the phrase “second first edge,” but now refers to a fastening element with a “first edge” and a “second edge.” The Applicant submits that support for claim 4, as currently amended, can be found in the specification as originally filed, at least from page 17, line 24 through page 18, line 13. In light of this, the Applicant submits that the specification provides proper antecedent basis for the subject matter of claim 4.

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For these reasons, the Applicant respectfully requests reconsideration and withdrawal of the objections to the specification.

Objection to the Claims

Claim 4 stands objected to as containing a typographical error. (Office Action, page 3, point 4.) The Applicant notes that claim 4 previously included the phrase “second first edge.” The Applicant points out that claim 4 as currently amended no longer includes the phrase “second first edge,” but now refers to a fastening element with a “first edge” and a “second edge.” The Applicant submits that claim 4, as currently amended, is now correct. For this reason, the Applicant respectfully requests reconsideration and withdrawal of the objection to claim 4.

Rejection Under 35 USC § 112, First Paragraph, for Written Description

Claim 4 stands rejected under 35 USC § 112, first paragraph as failing to comply with the written description requirement. (Office Action, pages 3-4, point 5.) The Applicant notes that claim 4 previously included the phrase “second first edge.” The Applicant points out that claim 4 as currently amended no longer includes the phrase “second first edge,” but now refers to a fastening element with a “first edge” and a “second edge.” The Applicant submits that support for claim 4, as currently amended, can be found in the specification as originally filed, at least from page 17, line 24 through page 18, line 13. The Applicant submits that claim 4, as currently amended, meets the written description requirement. For this reason, the Applicant respectfully requests reconsideration and withdrawal of the written description rejection to claim 4.

Rejection Under 35 USC § 112, First Paragraph, for Enablement

Claim 14 stands rejected under 35 USC § 112, first paragraph as failing to comply with the enablement requirement. (Office Action, page 4, point 6.) The Applicant points out that claim 14 is canceled with this response. In light of this, the Applicant submits that this rejection is moot. For this reason, the Applicant respectfully requests reconsideration and withdrawal of this enablement rejection.

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Rejections Under 35 USC § 112, Second Paragraph, for Indefiniteness

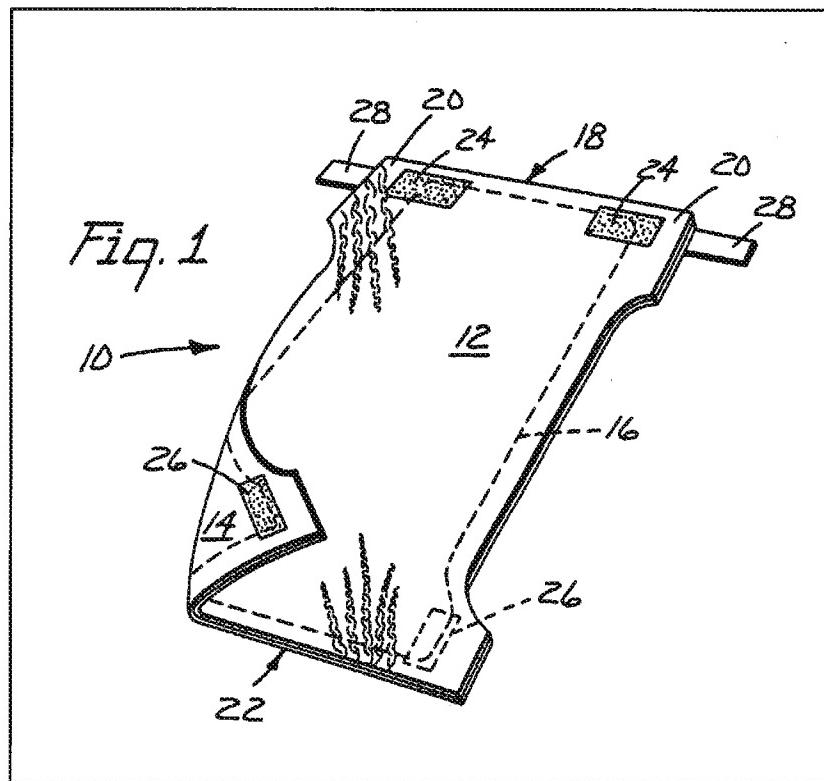
Claims 12, 13, and 14 stand rejected under 35 USC § 112, second paragraph as being indefinite. (Office Action, pages 4-5, point 7.) The Applicant points out that claims 12, 13, and 14 are canceled with this response. In light of this, the Applicant submits that this rejection is moot. For this reason, the Applicant respectfully requests reconsideration and withdrawal of these indefiniteness rejections.

Rejections Under 35 USC § 103 Over Polski

Claims 1, 4, 5 and 8-19 stand rejected under 35 USC § 103(a) as being unpatentable over Polski (US 5,019,072). The Applicant notes that claims 11-19 are canceled with this response.

Independent claim 1, as currently amended, recites in part, “An article...comprising ...a surface fastening system...including a first surface fastening element...including an effective dimension Y extending substantially parallel to a longitudinal axis of the article, the effective dimension Y increasing from a distal edge of the first fastening element to a proximal edge of the first fastening element.” The Applicant’s independent claim 1 describes a fastening element with an effective dimension that varies across its width.

The Office Action cited elements of the Polski reference against the Applicant’s independent claim 1. From the Applicant’s review, Figure 1 of the Polski reference appears to disclose a disposable diaper 10 with peelable adhesive patches 24 and 26. (Col. 2, lines 33-48.) For reference, Figure 1 is shown below.



In describing the peelable adhesive patches, the Polski reference states:

Preferably, when the disposable diaper is of a size to be worn by an infant, each patch of adhesive at the back ears of the diaper is from 3 to 6 cm in length and from 1.5 to 3 cm in width, with the lengthwise direction parallel to the lengthwise direction of the waist band. When the patches of peelable adhesive at the front ears of the diaper are of economically small size, a back adhesive patch length less than 3 cm might not allow enough leeway for wearers of different size, while a length of more than 6 cm might be economically wasteful.

Although the peelable adhesive at the front of the diaper can be a continuous strip across the front of the diaper, for great leeway in sizes of wearers, there preferably is a separate patch of peelable adhesive at each side or ears at the front of the diaper, and each patch is from 3 to 6 cm in length and from 1.5 to 3 cm in width, with the lengthwise direction extending orthogonally to the waist band lengthwise direction. When the adhesive patches are within these preferred sizes, the diaper can be wrapped snugly around an infant's waist and legs while ensuring a high likelihood of adhesive-to-adhesive contact across the full width of each

peelable adhesive patch. This might not always be accomplished if the front adhesive patches were less than 3 cm in length.

(Col. 3, lines 2-26.)

From the Applicant's review, the Polski reference appears to describe fastening elements with an effective dimension that remains constant across its width. In Figures 1 and 2, the Polski reference appears to illustrate the peelable adhesive patches 24 and 26 as rectangular patches, with lengths and widths oriented on the lateral and longitudinal axes of the diaper 10. Consistent with the illustration, the Polski reference also describes the rectangular peelable adhesive patches 24 and 26 as having lengths and widths oriented on the lateral and longitudinal axes of the diaper 10. (Id.) The Polski reference further describes a constant effective dimension by describing preferred embodiments where the fasteners have "contact across the full width of each peelable patch."

Thus, the Polski reference teaches away from a fastening element with an effective dimension that varies across its width, as described in the Applicant's independent claim 1. For this reason, the Applicant submits that, "An article...comprising ...a surface fastening system...including a first surface fastening element...including an effective dimension Y extending substantially parallel to a longitudinal axis of the article, the effective dimension Y increasing from a distal edge of the first fastening element to a proximal edge of the first fastening element," as recited in part in claim 1, as currently amended, would not have been obvious to one of ordinary skill in the art. Thus, the Applicant respectfully requests reconsideration and withdrawal of the rejection under § 103 for claim 1, along with the pending claims that depend therefrom.

New Claims are Nonobvious Over Polski

The Applicant notes that new independent claim 22 is added with this response. New claims 23-33 depend from claim 22. Independent claim 22, as currently amended, recites in part, "A wearable article comprising...a surface fastening system...wherein...when the surface fastening system is in an engaged configuration and subjected to a first particular peel force, oriented in the xz plane, the fasteners disengage; and when the surface fastening system is in an engaged configuration and subjected to first the particular peel force, oriented

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in the yz plane, the fasteners remain engaged..” From the Applicant’s review, the Polski reference does not appear to describe teach or suggest a fastening system that remains engaged or disengages, depending on the orientation of a particular peel force, as described in independent claim 22. For this reason, the Applicant submits that, claim 22, as newly presented, would not have been obvious to one of ordinary skill in the art. Thus, the Applicant respectfully requests that the Examiner find claim 22, along with the pending claims that depend therefrom, to be nonobvious and allowable over the cited art.

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Conclusion

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the cited references. Accordingly, the Applicant respectfully requests reconsideration of this application and allowance of the pending claims.

Respectfully submitted,

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